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SUMMARY RECORD OF THE 1196th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 30 October 1992, at 10 a.m.

Chairman: Mr. POCAR

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GE.92-18258 (E)

The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of the Islamic Republic of Iran (CCPR/C/28/Add.15; M/CCPR/92/64) (continued)

1. The CHAIRMAN invited members of the Committee to continue consideration of the second periodic report of the Islamic Republic of Iran (CCPR/C/28/Add.15) and called upon the Iranian delegation to reply to the questions put by the Committee concerning section II of the list of issues to be taken up in connection with the consideration of that report (M/CCPR/92/64 - document without symbol in English), reading as follows:

"II. Right to life, treatment of prisoners and other detainees and liberty and security of the person

"(a) How often and for what crimes has the death penalty been imposed and carried out since the consideration of the initial report?

"(b) Please enumerate the offences, if any, other than those mentioned in paragraph 59 of the report, which are punishable by the death penalty.

"(c) Please comment on the conformity of Iranian law with the provision in article 6, paragraph 2, of the Covenant that the death penalty should be imposed only for the most serious crimes. Is any revision of law, with a view to curtailing the number of offences currently punishable by the death penalty, being contemplated?

"(d) Please comment on the application in practice of articles 18, 205, 219 and 257 of the Islamic Punishment Law mentioned in paragraph 59 of the report.

"(e) Have there been any public executions in the Islamic Republic of Iran and, if so, is this procedure compatible with articles 6 and 7 of the Covenant?

"(f) Have there been any complaints during the period under review of alleged disappearances and extrajudicial executions and, if so, have such allegations been investigated and with what results? What measures have been taken to prevent any recurrence of such acts?

"(g) What are the rules and regulations governing the use of firearms by the police and security forces? Have there been any violations of these rules and regulations and, if so, what measures have been taken to prevent their recurrence?

"(h) What concrete measures have been taken by the authorities to ensure the strictest observance of article 7 of the Covenant? Can confessions or testimony obtained under torture be used in court proceedings?

"(i) Please provide information on arrangements for the supervision of places of detention and on procedures for receiving and investigating complaints.

"(j) Please provide information about maximum time-limits for remand in custody and pre-trial detention.

"(k) How quickly after arrest is a person's family informed and how quick after arrest can a person contact a lawyer?

"(l) Please provide information on provisions relating to incommunicado detention and clarify their compatibility with articles 7 and 10 of the Covenant."

2. Mr. MEHRPOUR (Islamic Republic of Iran), replying to question (a), said that the imposition of the death penalty was discussed in paragraphs 57 to 59 of the second periodic report. Under Iranian law, the death penalty could be imposed for the most serious crimes, such as homicide, premeditated murder, armed robbery, rape and offences connected with drug trafficking. Any person found guilty by the courts of one of those offences whose seriousness was such that he could not be pardoned was sentenced to death and the court's decision was carried out.

3. Another offence punishable by the death penalty (para. (b)) was armed rebellion, whether collective or individual, direct or indirect, with a view to overthrowing the Government; it was punishable under the Penal Code. Moreover, the law stated that any person who agreed to drive a vehicle with a view to killing, kidnapping or raping someone was also punishable by death. However, the court's decision was applied only when it was proved that the victim had been killed. Furthermore, an illicit relationship between two persons did not constitute the type of rape that was punishable by death. Similarly, armed robbery was not necessarily punishable by death but, depending on circumstances, by a term of imprisonment. In that respect, Iranian legislation was fully in accordance with the principle embodied in article 6, paragraph 2 of the Covenant, and the death penalty was imposed only when the offence was regarded as extremely serious. In some cases, the seriousness of the crime could be evaluated in different ways by various societies or cultures. The Iranian authorities, for their part, had done everything in their power to limit the imposition of the death penalty as much as possible by getting individuals and society in general to adopt behaviour likely to prevent the commission of serious crimes. In that connection, a unit had recently been created in the public prosecutor's office to consider the best ways of curbing delinquency, and a large number of experts and lawyers had embarked upon studies based on the experience of competent United Nations bodies.

4. Referring to paragraph (c) of section II, he said that the Iranian Government deplored the number of executions that had taken place in the past

in application of judgements handed down by the courts; the situation had been exceptional, however. In the first place, during the difficult period that followed the Islamic revolution, the new authorities had been forced to take action against the partisans of the former regime who had contributed to the destruction of the country's basic institutions. Secondly, after the merciless war waged against the Islamic Republic of Iran which had caused irreparable damage to the country, steps had to be taken to punish persons who had collaborated with the enemy by illegally introducing into Iranian territory explosives and bombs which had caused the death of a large number of innocent civilians, and by engaging in espionage and sabotage against the Iranian population. In those cases too, the death penalty had been imposed on those who had been found guilty. Lastly, the country had experienced the scourge of drugs and drug trafficking. The traffickers, who imported drugs into Iran, mainly for export to the European countries, had corrupted a number of young persons who had experienced the devastating effects of that scourge. The traffickers, driven to extremes, had committed murder, kidnapping, rape and robbery, particularly in the southern provinces, and innocent citizens as well as members of the armed forces and security forces responsible for the drug control campaign had been their victims. The question of imposing the death penalty on persons found guilty of drug trafficking had been discussed at great length by lawyers and the religious authorities, and in view of the seriousness of the corruption involved, which threatened the integrity of society, it had been decided that the death penalty could legally be imposed in such cases. It was worth noting that, to a certain extent, that decision had benefited other countries which were also victims of the drug traffic. It was to be hoped that the traffic would gradually be stamped out and that the number of persons thus sentenced to death would decline accordingly.

5. Referring to section II, paragraph (d), he explained that, under article 18 of the Penal Code of the Islamic Republic of Iran, the period of imprisonment of a person found guilty of an offence in accordance with the final and definitive decision of a court began on the day the sentence was pronounced. If the person had been remanded in custody before the judgement in order, for example, to prevent any destruction of evidence, the period of pre-trial detention was taken into account and deducted from the term of imprisonment to which he was sentenced. Article 205 of the Islamic Punishment Law was applied in the light of the provisions of articles 219 and 257 of that Law. Accordingly, a death sentence could be carried out only with the permission of the victim's next of kin and execution of the offender without that condition having been satisfied constituted a violation of the law. Article 257 stated that murder with premeditation was punishable by death. However, the punishment could be commuted in agreement with the victim's next of kin. By the victim's next of kin was meant his children, his spouse, his brothers and sisters, his father and mother. The permission could, however, be requested of only one of the next of kin, who could oppose the execution of the guilty party even if the court's sentence was final. A guilty party could also be pardoned at the request of one of the victim's next of kin, even on the day before the execution. The rule on the subject had been laid down in the Islamic Republic of Iran by the judiciary, whose representatives, responsible for the maintenance of social, moral and religious order, traditionally derived their authority from the Imams who were the successors of the Prophet. In modern Iranian society, those representatives were competent persons, elected in accordance with the Law on the organization of

the judiciary. In practice, when the death penalty was imposed in accordance with the public prosecutor's final decision, a copy of the judgement was addressed to the president of the court of the region or province in which the offence had been committed, accompanied as the case may be by the entire contents of the file. Execution of the sentence could be postponed if the condemned person lodged a petition of clemency.

6. Replying to the question in paragraph (e), he explained that the practice of public executions had been adopted in the Islamic Republic of Iran in the hope that it would have a deterrent effect on the people, particularly in cases where the crimes committed had been exceptionally serious and had directly affected the integrity of the population. However, a number of experts now tended to believe that the execution in public of an individual, even if he was a criminal, could have negative psychological effects on the population. For that reason, executions took place increasingly within prison establishments.

7. Referring to question (f), he said that there had been no complaints of disappearances or extrajudicial executions in the Islamic Republic of Iran. However, the Iranian authorities had taken note of the report of the Special Representative of the Commission on Human Rights concerning the Islamic Republic of Iran (E/CN.4/1992/311) and some of the cases mentioned had been investigated; the results had been made public on completion of the investigation, although most of the investigations were still under way.

8. Iranian law provided remedies against illegal acts committed against someone's life or property by agents of the State, as a means of preventing such practices. At the beginning of the Iranian revolution, when the Government had not yet completely established control over the country, a person belonging to the former regime had been arrested and then released and attacked or even killed by certain groups. When the matter had been clarified the Government had taken the necessary steps to bring those responsible to justice.

9. The law expounded the principle that any punishment inflicted should be provided for by the law and could be imposed only on the basis of a judgement. It was the so-called Ta'azirat Law which, in articles 50, 51 and 52, as well as 71 and 72, stated the provisions applicable in that respect (CCPR/C/Add.15, para. 92). For example, those responsible for the application of the laws or for disciplinary services who refused to listen to a person in prison in violation of the law and could not prove that they had transmitted his complaint were dismissed without appeal and prohibited from taking a job in the civil service for a period of three to five years. If a person in detention was tortured or threatened with death, the person responsible had to submit to the law of retribution (blood money) on pain of imprisonment. Persons who had abused their powers had been charged and punished.

10. Replying to question (g) concerning the use of firearms by the police and security forces, he said that a law going back to the former regime covered cases in which the armed forces could use firearms to a certain extent: first, when a police officer or member of the armed forces had to defend himself against an armed attack; secondly, when he was attacked by one or more

unarmed persons but was unable to defend himself other than by using a firearm; and, thirdly, to protect the life of one or more persons in danger.

11. The use of firearms against a fleeing prisoner was authorized if the latter was armed and dangerous. Regulations elaborated by the armed forces command regulated the use of firearms for the defence of areas and premises under the jurisdiction of the military authorities. Under those regulations, any person trying to penetrate a forbidden area had to heed the warnings addressed to him; if he obeyed neither the second nor the third warning, the guard or sentry could open fire, preferably in the air or at his legs and he should, as far as possible, avoid killing or paralysing the offender. A Law on the use of firearms by the armed forces had recently been promulgated at the request of the armed forces themselves. It stated that any member of the armed forces who infringed the rules and criteria laid down in that Law by using firearms was committing an offence for which he was answerable and could be punished by imprisonment of from two months to one year. If the person was killed, the law of retribution was applicable.

12. He pointed out that question (h) concerning observance of article 7 of the Covenant and the prohibition of torture and cruel, inhuman or degrading treatment had been dealt with in the report: article 38 of the Constitution stated that all forms of torture for the purpose of extracting confessions or acquiring information were forbidden (CCPR/C/28/Add.15, para. 78). It was forbidden to compel someone to testify, to confess or to take an oath against his will, and any testimony, confession or oath obtained under duress was null and void. Offenders were punished in accordance with the law. Various laws and regulations ensured the application of that principle. In some cases, police officers or members of the armed forces violated that provision because they were unfamiliar with the rules in force or acted under the pressure of circumstances; if violation of the law was proved, an investigation was carried out and the person in question was tried in accordance with the law.

13. With reference to question (i) concerning the supervision of places of detention and procedures for examining complaints, he said that, according to article 32 of the Constitution, a person could be arrested only on the basis of a warrant and in accordance with the procedure laid down by law. The reasons for the arrest must be notified immediately in writing to the accused and a provisional file transmitted to the competent judicial authorities within 24 hours so that the preliminaries of the trial could be completed as swiftly as possible. Violation of that article was punishable in accordance with the law. The rules governing arrest and detention were set out in articles 112, 113, 114 and 121 of the Code of Criminal Procedure (CCPR/C/28/Add.15, para. 97). The suspect was generally summoned and had to appear in person. In exceptional cases he could be arrested on the spot if there was a danger that he might go into hiding or escape, or if he was without profession or fixed abode. The law also provided that the public prosecutor or his assistant could visit a suspect on his sickbed in order to question him. Once the suspect had been presented to the public prosecutor a period of 24 hours was laid down for the preliminary investigation. If a longer period was necessary or if there was a danger that the suspect - if released - would escape, he was asked to put up bail in an amount proportional to the offence with which he was charged; otherwise, he was held in pre-trial detention.

14. A person could be admitted to a detention centre only on the basis of a warrant issued by the competent authorities. Article 51 of the Ta'azirat Law stated that if the prison authorities or the director of the detention centre imprisoned someone without a warrant from the competent authorities, they were liable to two months to two years' imprisonment. If the detainee was treated illegally, he could lodge a complaint and the director of the prison was under a duty to transmit his complaint to the competent authorities. Each detention centre had an assistant public prosecutor responsible for monitoring the situation and transmitting the requests of prisoners, such as petitions of clemency, which had to be communicated to the Amnesty Committee.

15. As for the maximum period of remand in custody and pre-trial detention (question (j)), he recalled that, if arrested, the detainee had to be brought before the public prosecutor by the police within 24 hours for questioning. On completion of the questioning, the detainee was taken before the court by the public prosecutor who presented an oral bill of indictment if no indictment had been prepared. If the case did not involve a serious crime, the court allowed the accused the time necessary to prepare his defence and contact a lawyer and he could be released on bail. In more difficult cases in which the public prosecutor needed more time to conduct the investigation, pre-trial detention could last two months in the case of ordinary offences and up to a maximum of four months in the case of criminal offences (CCPR/C/28/Add.15, para. 99). Those time-limits of two and four months could not be exceeded, according to article 129 of the Code of Criminal Procedure. However, the case might be so serious that a time-limit of four months was not sufficient to prepare the indictment and bring the accused before the court; moreover, it might not be possible to release the suspect. The public prosecutor must then justify the need to extend the pre-trial detention period and the accused could appeal against that decision. The court would then have to examine his request and decide either to grant it or to confirm his detention.

16. Lastly, replying to questions (k) and (l) concerning detention incommunicado and the possibility for the detainee to contact a lawyer and his family, he said that under Iranian law the accused always had the right to communicate with his lawyer and his family. When, after a period of police custody which could not exceed 24 hours, the suspect was brought before the public prosecutor, the latter was required, under article 112 of the Code of Criminal Procedure, to ensure that the accused had the services of a lawyer and to inform his family. The law specified the circumstances in which a detainee could be prohibited from communicating with his family or his friends: under article 130, paragraph 3, of the Code of Criminal Procedure, he was deprived of that possibility when contact with other persons could result in the destruction of evidence or collusion with witnesses. As soon as the reasons for that prohibition ceased to be valid, the detainee was free to meet whomever he wished. He could appeal against the public prosecutor's decision at any stage of the procedure. The detainee's right to communicate with his lawyer could not be restricted in any way, and even when he was forbidden contact with anyone else, he could always see his lawyer subject to the approval of the judicial authorities.

17. The CHAIRMAN, noting that the Iranian delegation had replied to all the questions set out in section II of the list of issues to be taken up, proposed a short suspension of the meeting.

18. The meeting was suspended at 4.23 p.m. and resumed at 4.41 p.m.

19. The CHAIRMAN invited members of the Committee to put their questions after hearing the Iranian delegation's replies to section II of the list of issues to be taken up in connection with the consideration of the second periodic report.

20. Mr. SADI first of all noted the Iranian delegation's assurance that the death penalty would be imposed as little as possible. However, reports reaching members of the Committee from various sources, and particularly from the Special Representative of the Commission on Human Rights (E/CN.4/1992/34), referred to thousands of executions during the past few years. Even if those figures were not absolutely correct, they were nevertheless alarming. The Special Representative mentioned 884 executions in 1991 alone. The question that arose in connection with those executions was that of defining what was meant by the most serious crimes - those that justified the death penalty. From the Committee's standpoint, the criteria by which those crimes could be identified were set out in article 6 of the Covenant, and he considered he was justified in saying that drug trafficking or armed robbery that had not entailed any deaths did not satisfy those criteria. It was his understanding that the principles used as a basis by the Islamic Republic of Iran in imposing the death penalty had their source in Islam. However, he wondered where exactly in Islamic law it was possible to find justification for imposing the death penalty for drug trafficking or armed robbery which had not entailed any deaths; he would appreciate clarification of that point. He thought that the Islamic Republic of Iran could review the criteria it applied in that respect.

21. Secondly, with respect to torture (article 7 of the Covenant), paragraph 78 of the report stated that all forms of torture for the purpose of extracting confessions or acquiring information were forbidden. It could be inferred from that statement that torture was authorized if it was used for other purposes, although the replies of the Iranian delegation to the written questions suggested that torture was prohibited in general. Was that the case?

22. Thirdly, he would like to know whether death sentences could be appealed and whether the delegation could give examples of the results of such appeals. Specifically, he would like to know whether death sentences had already been revoked.

23. Mr. MÜLLERSON said he had taken due note of the Iranian delegation's explanations concerning the evolution of Islam over the centuries. His first question concerned the law on crimes against Divine Will, whose meaning appeared to be vague and yet very broad; he would appreciate further details on the subject and especially on the punishment laid down. His second question concerned article 119 of the Penal Code which, according to information from Amnesty International, made adultery punishable by death by lapidation, and specified that the stones used should be neither too large nor

too small. He wondered whether that was an exact translation of the Penal Code, for he failed to understand how pious people could participate in such acts.

24. Thirdly, he asked how the death sentence passed on the writer Salman Rushdie could be justified, particularly in the light of article 6, paragraph 2, of the Covenant. Paragraph 57 (a) of the report stated that application of Capital Punishment in Iran was limited to those cases specified in the binding laws for perpetration of the most serious crimes; those crimes were listed in paragraph 59 and the delegation had mentioned a number of others, such as armed rebellion, kidnapping and rape. In the light of that information and the restrictions laid down in article 6 of the Covenant, it was not clear why Mr. Salman Rushdie had been condemned to death. Moreover under article 14, paragraph 5, of the Covenant, everyone convicted of a crime had the right to his conviction and sentence being reviewed by a higher tribunal according to law. Yet Mr. Salman Rushdie's conviction was apparently not subject to review. Moreover, could it be really believed that authorship of an offensive work constituted one of the most serious crimes? Mr. Mehrpour had himself said that clemency should be encouraged, in accordance with the precepts of Islam. Consequently, even if apparently Mr. Salman Rushdie had seriously offended Muslims - and not only those living in Iran - would it not be in accordance with the spirit of tolerance that was part of Islam to revoke the Fatwa against him?

25. Mrs. CHANET, referring first to article 6 of the Covenant, noted that although the death penalty was not prohibited by the Covenant it was nevertheless subject to certain conditions which were moreover set out in the Committee's general comments on the subject. Mr. Mehrpour had acknowledged that the Covenant had the effect of reducing the number of cases in which the death penalty was imposed and, in referring to the crimes that were punishable by death in Iran, he had spoken only of blood crimes and had not referred to robbery or adultery. That seemed to suggest that he was aware that the concept of serious crimes within the meaning of the Covenant did not always correspond to the criteria used by the State at a given time. In some countries theft, for example, was counted among the most serious of crimes and that was why the Covenant and the general comments relating to article 6 had implicitly refuted that subjective interpretation of serious crimes in each country. The general comments stated that the death penalty should be a quite exceptional measure and that the expression "the most serious crimes" must be read restrictively. As Mr. Sadi had said, the proportionality of the State's response to an offence was a criterion used by the Committee. According to that criterion, only the deprivation of life could justify deprivation of life as a response by the State. When the offence committed had not entailed deprivation of life but the State's response was nevertheless deprivation of life, the penalty was disproportionate and contrary to the provisions of article 6, paragraph 2, of the Covenant. In that sense, therefore, it appeared that Iranian legislation failed to satisfy the first condition set out in that paragraph.

26. The second condition was that the death sentence should be pronounced in accordance with the legislation in force. She would like to know what legislation had been applied in respect of the Baha'is condemned to death. In view of what was said in paragraph 59 of the report, she would also like to

know with what offences they had been charged. Furthermore, paragraph 153 (c) of the report stated that the judge had to deliver his judgement on the basis of authoritative Islamic sources and authentic Fatwa (religious decrees). It therefore appeared that there was a law above that of the State. If such was the case, was it a law that offered the same guarantees as national legislation; in other words, was it specific and not subject to interpretation? Was it transparent and familiar to all? Moreover, what legislative instruments specified offences punishable by death?

27. The third condition mentioned in article 6, paragraph 2, of the Covenant, namely, that the death penalty should not be contrary to the provisions of the Covenant, meant that no one was punishable by death for exercising the rights guaranteed by the Covenant, even if such exercise was regarded as an offence in his country. She was thinking in particular of offences of opinion and conscience, and in that connection drew attention to the provisions of articles 18 and 19 of the Covenant which guaranteed rights whose exercise could not be punishable by death. Consequently, under the Covenant no one could be condemned to death for having written a literary work, and she endorsed the questions put by Mr. Müllerson. Similarly, the death penalty could not be used to punish exercise of the right to freedom of political and religious beliefs. Yet according to Amnesty International 2,500 persons had been executed for political reasons in Iran during a six-month period (mid-1988 to the beginning of 1989). Furthermore, it was stated in the report of the Special Representative of the Commission on Human Rights (E/CN.4/1992/34) that an assistant professor at the University of Tabriz had allegedly been executed during the year for having criticized the Government's economic and social policy. Could the Iranian delegation confirm that information?

28. Lastly, article 6, paragraph 2, of the Covenant specified a fourth condition: the sentence had to be pronounced by a competent court. Reverting to the Salman Rushdie case, she asked what court had condemned him to death and in accordance with what procedure?

29. Referring to article 7 of the Covenant, she noted that, according to paragraph 2 of the general comments relating to that article, the prohibition referred to in article 7 must extend to corporal punishment, including excessive chastisement inflicted as a disciplinary measure. Yet the report of the Special Representative of the Commission on Human Rights (E/CN.4/1992/34) referred to the application of measures of extreme severity, called "judicial sanctions". They included flogging, lapidation and amputation of fingers in the case of thieves. Such punishment did not seem compatible with article 7 of the Covenant. She therefore asked whether it could be hoped that the Iranian authorities would endeavour to bring their legislation into line with the Covenant in that respect. Lastly, not only non-governmental organizations but also the Special Representative of the Commission on Human Rights had reported numerous cases of torture used to obtain confessions, and mentioned flogging, prolonged deprivation of sleep and various forms of psychological torture. Could the Iranian delegation confirm those reports?

30. Mrs. HIGGINS associated herself with the questions put by the other members of the Committee but said she would confine herself to the one concerning the reasons invoked in imposing the death penalty. She would like

to know whether there were, in practice, any reasons justifying that penalty which were not provided for in the criminal legislation presented to the Committee. She was thinking mainly of apostasy, corruption, opposition to Islam and deception. Specifically, it appeared that a number of persons had been executed during the past few years not for committing one of the offences mentioned in paragraph 59 of the report (punishable by the death penalty), but for the offence of apostasy. Was that so? She added that the Fatwa pronounced against Mr. Salman Rushdie suggested that the death sentence imposed on him was not based on Iranian criminal legislation.

31. She would also like to know whether the Islamic revolutionary courts were still in existence. If so, for what categories of offences could they impose the death penalty? It was her understanding that there was no appeal against a sentence of that nature, despite the fact that the Covenant made express provision for the right to request review of a sentence. Furthermore, she did not consider that procedure under which a death sentence could be pronounced and carried out within 48 hours was compatible with the Covenant. The Iranian authorities had, moreover, officially recommended that death sentences should be carried out swiftly. In any event, it was impossible for a condemned person to prepare his appeal properly within the short period of time that was apparently allowed him in Iran - assuming that he did have a remedy.

32. Mr. Mehrpour had explained to the Committee that the very large number of executions that had taken place in 1988 were to be viewed in the context of the war between Iran and Iraq. However, a large number of those executed had been imprisoned for many years and could not therefore be accused of collaboration with the enemy. Lastly, with respect to apostasy, she would like to know whether a certain Fatwa authorizing the execution of detainees who failed to perform their religious rites in prison was still in force.

33. Mr. DIMITRIJEVIC wished first of all to clarify a certain point. In his view, the Iranian delegation was using a false assumption as a point of departure in stating that the Covenant could be interpreted according to the principle of cultural relativity. It was not the first time that representatives of a State party had stated in the Committee that the Covenant should be interpreted in the light of the culture of a specific country and that that culture should influence the application of the Covenant to the extent that the Committee was unable to understand the human rights situation in that country. He challenged that point of view since the Covenant was the result of a multicultural effort. It did not seek to impose on all States parties the cultural values of a specific country, as was obvious from the long preparatory work to which experts representing all cultures, all political systems and all the major religions of the world had contributed. It therefore constituted common ground for all countries, regardless of their culture, that should serve as a basis for discussions on the question of human rights. He recalled that the Iranian authorities had freely ratified the Covenant because they had considered it to be compatible with the basic cultural values of their country. For example, the Covenant did not contain the word "democracy", which did not necessarily represent a value common to all political systems; on the other hand, it often employed the term "arbitrary", and one of its main objectives was surely the prevention of arbitrary action by the State against the human beings under its jurisdiction. Yet he felt that the term "arbitrary" was alien to the Iranian delegation.

Generally speaking, and regardless of cultural heritages, it could be generally agreed that the Covenant constituted a zone of convergence for all cultures in an extremely important sphere. In that sense, the attitude of the Iranian authorities to women, for example, could not be explained by cultural context. It was contrary to a fundamental principle, that of the freedom of the individual, and when the Iranian delegation harked back to the time when Iranian women were punished for behaviour that was now accepted it was evoking a period when arbitrary action had been the rule. On a whole series of rights the Covenant left a certain amount of leeway to the State party which could, to a varying extent, restrict those rights subject to certain conditions. Yet there were some fundamental principles from which no derogation was possible.

34. As for the application of article 6 of the Covenant, paragraphs 59 et seq. of the report suggested that deliberate murder, which was one of the offences punishable by the death penalty was regarded as a private matter which should be settled between the murderer and the victim's next of kin. In other words, there was a sort of legalized vendetta and the entire procedure appeared to depend in general on the grievances and wishes of the families of the victims. He felt it would be unwise for such a serious matter to be settled on the basis of personal considerations. In certain countries that type of offence was settled between the two parties concerned, the State simply acting as an observer, but it was difficult to see how that kind of situation could help to eradicate behaviour that was contrary to the interests of any State, including those of Iran. Furthermore, the definition of offences punishable by death raised certain problems in connection with article 15 of the Covenant. The definition was too vague since it was unclear, for example what was covered by the term "corruption on earth". Indeed, what the law had to say should be stated clearly and understandably for all those to whom it applied, particularly in the case of criminal law. A number of crimes regarded as the most serious were therefore included in extremely imprecise categories and that was certainly contrary to the provisions of article 15 of the Covenant.

35. As for article 7 of the Covenant, he had been pleased to hear the Iranian delegation state in reply to a question that public executions could indeed have a negative effect on persons witnessing them. That was beyond doubt, since according to reports children, for example, who had witnessed a public execution became psychologically traumatized. Moreover, a public execution constituted degrading treatment, not only for the person being executed but also for his family and relatives. Consequently, everything suggested that public executions were not compatible with article 7. Furthermore, the procedure connected with a public execution was clearly inhuman. In that connection, he referred to reports that had appeared in the Iranian press according to which, for example, two women had been lapidated after being accused of corruption, vice and adultery. Lapidation was not compatible with the Covenant. He would like to know, moreover, who actually threw the stones. Was it the public or persons specially designated to perform that task? The Iranian press had also reported that a man and woman accused of adultery had been thrown from the top of a 10-storey building and a mosque respectively; it would seem that public executions in Iran were even staged dramatically. Furthermore, the authorities apparently recommended that certain rules had to be complied with in the matter of crucifixion: it should not cause immediate death, the person crucified should be left on the cross for three days, and if

he survived he was released. He would like to hear what the Iranian delegation had to say on those various points. He also associated himself with the concern expressed by Mrs. Higgins concerning the dispatch with which death penalty cases were dealt with. In Iran it seemed that a murderer could be arrested, judged, sentenced and executed in less than 24 hours. Yet it was common knowledge that in many countries innocent persons were sometimes condemned to death, even after very long court proceedings. In the circumstances, therefore, it was difficult to see how the guarantees to which all persons charged and sentenced were entitled were being respected in Iran.

36. Referring to article 10 of the Covenant, he noted that, according to the report, prisoners were guaranteed the right to perform their devotions. Were detainees obliged to state their religion on entering prison? What happened if someone refused to do so? Was he punished and, more generally, was his refusal likely to affect the conditions of his detention?

37. Mr. PRADO VALLEJO thanked Mr. Mehrpour for the supplementary information which he had provided and which had enabled the Committee to discover certain essential aspects of life in Iran. One major problem remained however: in several spheres it would appear that legislation and practice were not in conformity with the provisions of the Covenant. And yet under article 2, paragraph 2, of that instrument States parties undertook to take the necessary steps, in accordance with their constitutional processes and with the provisions of the Covenant, to adopt such legislative or other measures as might be necessary to give effect to the rights recognized in the Covenant. He reverted specifically to the matter of punishment which had been referred to at length by other members of the Committee. He quoted the head of the judiciary, who had allegedly stated in 1991 that punishments, and in particular lapidation, were an integral part of Islam. In his own opinion, no concept could justify the punishments that had been mentioned. The world was changing, and not only legislation but also practice had to be adapted to those changes. The Iranian authorities should direct their thinking along those lines.

38. The Committee's doctrine was quite clear: the death penalty should be imposed only for the most serious offences and the accused should be provided with all necessary guarantees, including the right to appeal. However, in certain cases Iranian legislation provided for the death penalty for offences which were not counted among the most serious. There was accordingly contradiction between domestic legislation and the Covenant.

39. The practice of torture was contrary to article 7 of the Covenant. The Committee could never accept the idea that torture, amputations or flogging should be provided for by the law or recognized as normal practice. If a State's legislation, practice and customs were contrary to the Covenant, it should change them.

40. According to the Covenant, all persons had the right to a fair trial. They should have the assistance of counsel, be brought promptly before a judge and tried without undue delay. In that respect too the Islamic Republic of Iran should amend its legislation, its practice and its customs in order to bring them into line with the Covenant.

41. Mr. PRADO VALLEJO asked why the death penalty could be carried out only with the permission of the victim's next of kin (CCPR/C/28/Add.15, para. 59).

42. It seemed that executions for political reasons were quite frequent, since there had apparently been 50 in 1991. Was that so?

43. Was the rule that bar association officials had to be appointed by the Minister of Justice still applied, or could lawyers themselves elect their own representatives?

44. According to certain reports, a political detainee who had served his sentence had to sign a statement repenting what he had done before being released. Could the Iranian delegation provide clarification on that point?

45. The Committee hoped that the Islamic Republic of Iran would bring its legislation into line with the Covenant on all those various matters of concern.

46. Mr. EL SHAFEI thanked the Iranian delegation for its detailed replies to the questions raised in connection with section I of the list of issues to be taken up.

47. The Islamic Republic of Iran was not the only State party to the Covenant whose Constitution was based on Islamic law. There was considerable leeway in the interpretation of Islamic law by Islamic theologians and experts, and the Islamic Republic of Iran should be able, without difficulty, to bring its legislation and practice into line with the Covenant and thereby to comply with its international obligations. It should, for example, be possible to replace punishments such as amputation or lapidation by others which were in conformity not only with Islamic law but also the international Covenants.

48. What did the Penal Code provide for in the case of deliberate murder? Was the murderer sentenced only to pay blood money if that was acceptable to the murdered person's next of kin, or was he also sentenced to something else?

49. Was the Amnesty Committee part of the judiciary and were some of its members judges? Did it take action when all remedies had been exhausted or could it intervene in the course of the trial? In what cases could pardon be requested? In how many cases had pardon been granted?

50. The law stated that sentences had to be carried out as soon as they became enforceable. At what point did sentences become enforceable? Was it at the end of the period during which an appeal could be made?

51. In November 1991 the International Committee of the Red Cross (ICRC) and the Islamic Republic of Iran had concluded an agreement under which ICRC could visit detainees from time to time. What action had been taken under that agreement? Would Iran agree to other bodies - possibly Islamic bodies - visiting detainees? Agreements of that type had been concluded with other countries and there was nothing to suggest that such visits constituted interference in the internal affairs of the Islamic Republic of Iran.

52. He would also like to know whether an accused person could have the services of a defence lawyer at the investigation stage.

53. Mr. SERRANO CALDERA thanked the Iranian delegation for its replies. What the two members of the Committee from Islamic countries had said indicated that there were no reasons of a religious nature why Iranian legislation could not be brought into line with the Covenant. It should, moreover, be borne in mind in that connection that representatives of Islamic countries had participated in the drafting of that instrumert. The problem was not one of cultural and religious incompatibility between the "West" and the Islamic religion but of the judicial, legal, sociological and political system of the country.

54. He would like to know what steps the Islamic Republic of Iran had taken or intended to take to reduce the number of offences punishable by death. Moreover, what amendments had been made to criminal legislation with a view to making the right to pardon and clemency effective? What had been done to replace lapidation, amputation and flogging by other forms of punishment? Had new provisions permitting remedies with a view to obtaining moral reparation or compensation been embodied in criminal legislation?

55. Mr. NASSERI (Islamic Republic of Iran) pointed out that Iran was a very large country comprising numerous peoples and various traditions. The unifying element for many centuries had been Islam. Muslims were convinced that Islam created the best possible link between the spiritual world and the material world by according to each one its due importance and enabling the population to benefit from what the modern world offered while protecting it against harmful elements. It could, of course, be argued that each State party to the Covenant should simply apply its provisions to the letter. Yet many peoples were not satisfied with the rigid application of human rights instruments and wanted account taken of their traditions, culture and religious context in order to evaluate the human rights situation in a country.

56. A revival of Islam, which some called fanaticism or extremism and others renaissance, was obviously taking place. Some organizations in certain countries considered that ascent of Islam constituted a new threat to the world and one which should be curbed. Others regarded that revival in a more rational way and understood that a modus vivendi had to be arrived at with Islam and more harmonious relations created taking into account the needs and aspirations of Muslims throughout the world. For one reason or another that Islamic renaissance had begun in Iran, although Islamic feelings were being taken increasingly into account in the other Islamic countries, even in those which had lay Governments.

57. It should be borne in mind that certain Islamic countries - and by no means the least important - had not subscribed to the Universal Declaration of Human Rights. An even larger number had not yet acceded to the Covenant. There were reasons for that. It was easy to reject the argument that the representatives of Islamic countries had participated in the discussions that had led to the elaboration of the Universal Declaration of Human Rights and the Covenant, for it was clear that at that time the Islamic countries had not carried the political weight they deserved - which was still true at the

present time. The Islamic countries had therefore elaborated an Islamic Declaration of Human Rights. Members of the Committee had asked whether the Islamic Republic of Iran had specific reservations to make concerning the Universal Declaration of Human Rights and the Covenant; an examination of the Islamic Declaration of Human Rights revealed what, in the view of the Islamic countries, was lacking in those two instruments.

58. In that context the Islamic Republic of Iran could have refrained from acceding to the Universal Declaration of Human Rights and the Covenant, or could have withdrawn from them. It had not done so because, after considering the matter at length, it had reached the conclusion that those two instruments were compatible with Islamic law. The problem was that the Committee had the last word as regards the interpretation of the Covenant. The easiest interpretation would be to say that, in so far as domestic legislation did not use the exact wording of the Covenant, it was incompatible with it. The Committee could also request the Islamic Republic of Iran to delete from its legislation all references to Islamic law so as to remove any ambiguity about the compatibility of domestic law with the Covenant. That solution, which was possibly the easiest one from the Committee's standpoint, was not realistic from that of the Islamic Republic of Iran and the other Islamic countries in view of Islam's gathering strength. Discrepancies between domestic legislation and the Covenant should not be exaggerated, nor should an inflexible attitude be adopted since that would be in nobody's interest.

59. Comparisons were often made between Islamic law and international law and between Islamic culture and other cultures, and Islamic thought was generally criticized for not attaching sufficient importance to respect for human rights while the decadence of non-Islamic cultures was condemned. Those differences could be overcome and a better understanding of Islam, of Islamic law and of international law achieved only by means of a dialogue approached with an open mind.

60. The CHAIRMAN thanked the Iranian delegation. Consideration of the report of the Islamic Republic of Iran had taken longer than anticipated because it had covered a long period teeming with developments, and many detailed questions had to be raised. The Committee and the Islamic Republic of Iran could resume their constructive dialogue at the next session.

The meeting rose at 6.15 p.m.